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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 JULIUS BRADFORD,

10 Petitioner,

2:13-cv-01784-RFB-GWF

11 vs.

ORDER

12 TIMOTHY FILSON, *et al.*,

13 Respondents.
14 _____ /
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16 This habeas corpus action was stayed on March 31, 2015, pending the petitioner's exhaustion
17 of claims in state court (ECF No. 53).

18 On September 22, 2016, the petitioner, Julius Bradford, filed a motion to lift the stay (ECF No.
19 61). In that motion, Bradford states that the state-court proceedings have concluded. On October 6,
20 2016, respondents filed a response to the motion to lift stay (ECF No. 64), stating that they do not
21 oppose the motion. Good cause appearing, the Court will grant Bradford's motion to lift the stay.

22 On September 22, 2016, Bradford also filed a motion for leave to file a second amended petition
23 for writ of habeas corpus (ECF No. 63). Respondents do not oppose that motion (ECF No. 64). Good
24 cause appearing, the Court will grant Bradford's motion for leave to file a second amended petition.

25 On October 6, 2016, respondents filed a motion for substitution of respondent (ECF No. 65),
26 indicating that Bradford is incarcerated at Ely State Prison, and that the current warden of Ely State

1 Prison is Timothy Filson, and requesting that the identity of the respondent warden be updated
2 accordingly. Good cause appearing, pursuant to Federal Rule of Civil Procedure 25(d), the Court will
3 grant respondents' motion to substitute respondent.

4 The Court will also set a schedule for further litigation of this action.

5 **IT IS THEREFORE ORDERED** that petitioner's Motion to Lift Stay (ECF No. 61) is
6 **GRANTED**. The stay of this action is vacated.

7 **IT IS FURTHER ORDERED** that petitioner's Motion for Leave to File Second Amended
8 Petition for Writ of Habeas Corpus (ECF No. 63) is **GRANTED**. The Clerk of the Court shall
9 separately file petitioner's Second Amended Petition for Writ of Habeas Corpus, which is currently filed
10 as an attachment to petitioner's Motion for Leave to File Second Amended Petition for Writ of Habeas
11 Corpus, at ECF No. 63-1.

12 **IT IS FURTHER ORDERED** that respondents' Motion for Substitution of Respondent (ECF
13 No. 65) is **GRANTED**. The Clerk of the Court shall substitute Timothy Filson for Renee Baker, on the
14 docket for this case, as the respondent warden, and shall update the caption of the action to reflect this
15 change.

16 **IT IS FURTHER ORDERED** that the following schedule shall govern the further litigation of
17 this action:

18 1. Response to Petition. Respondents shall have 60 days after the date of this order to file and
19 serve an answer or other response to petitioner's second amended habeas petition.

20 2. Reply and Response to Reply. Petitioner shall have 45 days following service of an answer
21 to file and serve a reply. Respondents shall thereafter have 30 days following service of a reply to file
22 and serve a response to the reply.

23 3. Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner shall have
24 60 days following service of the motion to file and serve a response to the motion. Respondents shall
25 thereafter have 30 days following service of the response to file and serve a reply.
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1 4. Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner shall file
2 and serve such motion concurrently with, but separate from, the response to respondents' motion to
3 dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery filed by
4 petitioner before that time may be considered premature, and may be denied, without prejudice, on that
5 basis. Respondents shall file and serve a response to any such motion concurrently with, but separate
6 from, their reply in support of their motion to dismiss or their response to petitioner's reply. Thereafter,
7 petitioner shall have 20 days to file and serve a reply in support of the motion for leave to conduct
8 discovery.

9 5. Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner shall
10 file and serve a motion for an evidentiary hearing concurrently with, but separate from, the response to
11 respondents' motion to dismiss or the reply to respondents' answer. Any motion for an evidentiary
12 hearing filed by petitioner before that time may be considered premature, and may be denied, without
13 prejudice, on that basis. The motion for an evidentiary hearing must specifically address why an
14 evidentiary hearing is required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion
15 must state whether an evidentiary hearing was held in state court, and, if so, state where the transcript
16 is located in the record. If petitioner files a motion for an evidentiary hearing, respondents shall file and
17 serve a response to that motion concurrently with, but separate from, their reply in support of their
18 motion to dismiss or their response to petitioner's reply. Thereafter, petitioner shall have 20 days to file
19 and serve a reply in support of the motion for an evidentiary hearing.

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21 DATED THIS 13th day of January, 2017.

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26 RICHARD F. BOULWARE, II
 UNITED STATES DISTRICT JUDGE